

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 158 final

Brussels, 31 March 1982

PROPOSAL TO AMEND THE PROPOSAL FOR A COUNCIL DIRECTIVE CONCERNING  
THE ASSESSMENT OF THE ENVIRONMENTAL EFFECTS OF CERTAIN PUBLIC AND  
PRIVATE PROJECTS

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(Presented by the Commission to the Council pursuant to the  
second paragraph of Article 149 of the EEC Treaty)

COM(82) 158 final

COMMUNICATION TO THE COUNCIL

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At the sitting of the European Parliament on 18 February 1982, the Commission accepted the substance of certain amendments proposed by the Parliament to the Proposal for a Council Directive concerning the Assessment of the Environmental Effects of Certain Public and Private Projects, submitted to the Council on 16 June 1980.

In accordance with Article 149 of the E.E.C. Treaty, the Commission proposes the attached amendments to its original Proposal.

PROPOSAL TO AMEND THE PROPOSAL FOR A COUNCIL DIRECTIVE  
 CONCERNING THE ASSESSMENT OF THE ENVIRONMENTAL EFFECTS  
 OF CERTAIN PUBLIC AND PRIVATE PROJECTS

At the sitting of the European Parliament on 18 February 1982, the Commission accepted the substance of certain amendments proposed by the Parliament. In accordance with Article 149 of the E.E.C. Treaty, the Commission proposes the attached amendments to its original Proposal.

TEXT ALREADY PROPOSED (1)

AMENDED TEXT

Preamble and recitals unchanged

ARTICLE 1

ARTICLE 1

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| <p>1. This Directive shall apply to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.</p> <p>2. For the purposes of this Directive :<br/>         development project means a proposal :</p> <ul style="list-style-type: none"> <li>(a) to construct buildings, installations or facilities ;</li> <li>(b) to extract minerals ;</li> <li>(c) to make substantial changes in the landscape ;</li> </ul> <p>modification project means a proposal</p> <ul style="list-style-type: none"> <li>(a) to construct an extension or modification of buildings, installations or facilities ;</li> </ul> | <p>1. Unchanged</p> <p>2. Unchanged with the exception of the following :</p> |
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(1) The full text is contained in O.J. n° C 169 - 09.07.1980

TEXT ALREADY PROPOSEDAMENDED TEXT

- (b) to make a substantial change in the use of buildings, installations or facilities ;
- (c) to extend or modify mineral workings ;

project means either a development project or a modification project ;

competent authority means the authority or the authorities responsible in each Member State for executing the tasks set out in the present Directive in respect of a given project ;

developer means the applicant for planning permission for a private project or the public authority which proposes a project ;

planning permission means the decision of the competent authority to permit a project in the private sector or the corresponding decision to proceed in the case of a project in the public sector ;

competent authority means the authority or the authorities designated as responsible in each Member State for executing the tasks set out in the present Directive in respect of a given project ;

developer means the applicant for authorization for a private project or the public authority which proposes a project ;

authorization means the decision of the competent authority or authorities allowing the developer to carry out the project ;

TEXT ALREADY PROPOSEDAMENDED TEXTARTICLE 3ARTICLE 3

1. The assessment provided for in Article 2 shall consider the effects of projects on :
- water, air, soil, climate, flora, fauna and their interrelationships ;
  - the built-up environment, including the architectural heritage, and the landscape.
2. The effects on these resources shall be assessed by reference to the need to protect and improve human health and living conditions as well as to preserve the long term productive capacities of the resources.

The environmental impact assessment shall identify, describe and evaluate in the light of each individual case and in accordance with the following Articles, the direct and indirect effects of a project on :

- human beings, fauna and flora ;
- soil, water, air, climatic factors;
- material assets, including the cultural heritage, and the landscape;
- natural resources ;
- the ecological balance.

The effects shall be assessed with regard to the need to protect and improve human health and living conditions and to preserve the reproductive capacity of ecosystems as well as the diversity of species.

TEXT ALREADY PROPOSED

ARTICLE 4

1. Development projects of the classes listed in Annex 1 shall be made subject to an assessment in accordance with Articles 6 to 11.

For the purpose of excluding exceptional cases which are unlikely to have any significant effect on the environment, the competent authority may, with the agreement of the Commission, exempt a particular project below a specified threshold from the assessment mentioned above and, where appropriate, make it subject to a simplified form of assessment.

2. Projects of the classes listed in Annex 2 and modification projects of the classes listed in Annex 1 shall be made subject to an assessment in accordance with Articles 6 to 11, whenever their characteristics so require.

AMENDED TEXT

ARTICLE 4

1. Development projects of the classes listed in Annex 1 shall be made subject to an assessment in accordance with Articles 6 to 11.

Member States may, however, in exceptional circumstances, exempt such projects from the provisions of the aforesaid Articles. Where Member States grant such exemptions, they shall :

- (a) consider whether any other form of assessment would be appropriate ;
- (b) make arrangements for the public concerned to be informed and consulted in an appropriate manner;and
- (c) immediately inform the Commission of the reasons for granting the exemption.

2. Unchanged

TEXT ALREADY PROPOSEDAMENDED TEXT

The competent authority shall establish the criteria and thresholds necessary to determine which of those projects are to be made subject to an assessment in accordance with Articles 6 to 11 or, where appropriate, to a simplified form of assessment.

3. The competent authority shall examine which projects other than those mentioned above are likely to have a significant effect on the environment, having regard in particular to the environmental sensitivity of the site of the projects with a view to determining which projects should be made subject to an assessment in accordance with Articles 6 to 11 or, where appropriate, to a simplified form of assessment.

3. Unchanged

ARTICLE 6ARTICLE 6

1. The Member States shall adopt the necessary measures to ensure that the developer prepares, with the assistance of the competent authority when necessary, and supplies with his application for planning permission the following information in an appropriate form :
- a description of the proposed project and, where applicable, of

1. The Member States shall adopt the necessary measures to ensure that the developer prepares, with the assistance of the competent authority when necessary, and supplies with his application for authorization the following information in an appropriate form :
- unchanged

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TEXT ALREADY PROPOSEDAMENDED TEXT

the reasonable alternatives for  
the site and design of the  
project ;

- a description of the environment      - unchanged  
likely to be significantly affected  
by the proposed project, including  
where applicable, the environment  
in other Member States ;
- an assessment of the likely signi-      - unchanged  
ficant effects on the environment,  
including, where applicable, effects  
on the environment in other Member  
States ;
- a description of the measures      - unchanged  
envisaged to eliminate, reduce or  
compensate adverse effects on the  
environment ;
- a description of the relationship      - unchanged  
between the proposed project and  
existing environmental and land-use  
plans and standards for the area  
likely to be affected ;
- in the case of significant effects      - unchanged  
on the environment, an explanation  
of the reasons for the choice of  
the site and design of the proposed  
project, compared with reasonable  
alternative solutions which might  
have less adverse effects, if any,  
on the environment ;
- a non technical summary of the      - unchanged  
items above.

TEXT ALREADY PROPOSEDAMENDED TEXT

2. The information to be supplied in accordance with paragraph 1 shall also contain the data referred to in Annex 3 to the extent that they are relevant to the stage of the planning procedure and to the specific characteristics of the project and of the environment likely to be affected, and to the extent that the developer can reasonably be expected to be able to obtain them, taking into account existing knowledge and assessment methods.
3. At the appropriate stages of the planning procedure, the competent authority shall require completion of, or assist in completing when appropriate, the information to be supplied by the developer.
2. The information to be supplied in accordance with paragraph 1 shall also contain the data referred to in Annex 3 to the extent that they are relevant to the stage of the authorization procedure and to the specific characteristics of the project and of the environment likely to be affected, and to the extent that the developer can reasonably be expected to be able to obtain them, taking into account existing knowledge and assessment methods.
3. At the appropriate stages of the authorization procedure, the competent authority shall require completion of, or assist in completing when appropriate, the information to be supplied by the developer.

TEXT ALREADY PROPOSEDARTICLE 7

1. The competent authority shall send for opinion the application for a planning permission as well as the information gathered pursuant to Article 6 to all relevant administrative authorities and other statutory authorities or bodies with specific responsibility for environmental matters. The competent authority shall determine the authorities and bodies to be consulted and shall fix, where necessary, a suitable time limit within which comments shall be delivered.

2. If the project is likely to produce a significant effect on the environment in another Member State, the competent authority shall also ensure that the information gathered pursuant to Article 6 is sent for comment to the competent authority in that Member State and fix a suitable time limit within which comments should be returned.

AMENDED TEXTARTICLE 7

1. The Member States shall take the measures necessary to ensure that the authorities which may be concerned by the project by reason of their environmental responsibilities and which are designated by the Member States are given an opportunity to express their opinion on the application for authorization on the basis of the information gathered pursuant to Article 6, in accordance with the detailed arrangements laid down by national law.

2. Unchanged

TEXT ALREADY PROPOSEDARTICLE 8

The competent authority shall publish the fact that the application for planning permission has been made, shall make publicly available the application for planning permission, as well as the information gathered pursuant to Article 6, and shall arrange appropriate consultation with the public concerned. In the light of the importance of the likely environmental effects and of the number of persons likely to be affected, the competent authority shall decide the best means for giving the information to the public within a suitable time limit and for ascertaining the views of the public.

AMENDED TEXTARTICLE 8

1. The competent authority shall publish the fact that the application for authorization has been made, shall make publicly available the application for authorization, as well as the information gathered pursuant to Article 6, and shall arrange appropriate consultation with the public concerned. In the light of the importance of the likely environmental effects and of the number of persons likely to be affected, the competent authority shall decide the best means for giving the information to the public within a suitable time limit and for ascertaining the views of the public.
  
2. If the project is likely to produce a significant effect on the environment in another Member State, the population of that Member State should also be able to take part in the consultation process. The Member States shall determine, in the framework of their bilateral or multilateral relations, the most appropriate arrangements for this purpose.

TEXT ALREADY PROPOSEDAMENDED TEXTARTICLE 9ARTICLE 9

The provisions of Articles 7 and 8 do not affect the obligation of the competent authority to respect the limitations imposed by national laws, regulations, administrative provisions and accepted practices with respect to industrial and commercial secrecy, as well as to the public interest.

The provisions of Articles 7 and 8 do not affect the obligation of the competent authority to respect the limitations imposed by national laws, regulations, administrative provisions and accepted practices with respect to industrial and commercial secrecy, as well as to the public interest.

Where Article 7(2) applies, the transmission of information to another Member State shall be subject to the limitations in force in the Member State in which the project is proposed.

ARTICLE 10ARTICLE 10

1. The competent authority in its decision on an application for planning permission shall take into consideration the information gathered pursuant to Articles 6, 7 and 8, and shall, to that end, make an assessment of the likely significant effects of the proposed project.

1. The competent authority in its decision on an application for authorization shall take into consideration the information gathered pursuant to Articles 6, 7 and 8, and shall, to that end, make an assessment of the likely significant effects of the proposed project.

TEXT ALREADY PROPOSED

2. The competent authority, except when the planning permission is refused on grounds other than environmental, shall make publicly available, either in a separate document or as part of the decision on application for planning permission, the following :
- its assessment of the likely significant effects on the environment of the proposed project ;
  - a synthesis of the main comments and opinions received pursuant to Articles 7 and 8 ;
- the reasons for granting or refusing the planning permission;
- the conditions, if any, to be attached to the planning permission.

AMENDED TEXT

2. The competent authority, except when the authorization is refused on grounds other than environmental, shall make publicly available, either in a separate document or as part of the decision on application for authorization, the following :
- Unchanged
  - Unchanged
  - Where appropriate, its opinion on the outlined alternatives, including that of not pursuing the project ;
  - the reasons for granting or refusing the authorization ;
  - the conditions, if any, to be attached to the authorization.

Development projects (1) referred to in Article 4.1.  
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Items 1-7 unchanged

8. Processing of rubber (48)

Factories for the primary pro-  
duction of rubber  
Manufacture of rubber tyres (481.1)

8. Processing of rubber (48)

Factories for the primary pro-  
duction of rubber  
Manufacture of rubber tyres  
(481.1)  
Factories for the renewal or  
reprocessing of rubber products

Item 9 unchanged

(1) Development projects are classified, as far as possible, in the classes, groups and sub-groups of the 'General Industrial Classification of Economic Activities' within the European Community adopted by the Statistical Office of the European Communities, 1970. Reference numbers of the classification are indicated, where applicable.

TEXT ALREADY PROPOSEDAMENDED TEXT

## A N N E X 2

Projects (1) referred to in Article 4.2

Items 1 and 2 unchanged

## 3. Energy industry

Research plants for the production and processing of fissionable and fertile material

Production and distribution of electricity, gas, steam and hot water (except the production of electricity from nuclear energy)  
(16)

Storage of natural gas

## 3. Energy industry

Research plants for the production and processing of fissionable and fertile material

Production and distribution of electricity, gas, steam and hot water (except the production of electricity from nuclear energy)  
(16)

Storage of fossil fuels

Items 4-8 unchanged

## 9. Textile, leather, wood, paper industry

Wool washing and degreasing factories

Tanning and dressing factories  
(441.1)

Manufacture of veneer and plywood  
(462.1)

Manufacture of fibre board and of particle board (462.2)

## 9. Textile, leather, wood, paper industry

Wool washing and degreasing factories

Tanning and dressing factories  
(441.1)

Manufacture of veneer and plywood  
(462.1)

Manufacture of fibre board and of particle board (462.2)

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TEXT ALREADY PROPOSEDAMENDED TEXT

Manufacture of pulp, paper and  
board (471)

Manufacture of pulp, paper and  
board (471)

Cellulose mills

Cellulose mills

Textile dyeworks

Items 10 and 11 unchanged

- (1) The projects are classified, as far as possible, in the classes, groups and sub-groups of the "General Industrial Classification of Economic Activities" within the European Community adopted by the Statistical Office of the European Communities, 1970. Reference numbers of the classification are indicated, where applicable.

A N N E X 3

Content of the information required under Article 6  
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Items 1 and 2 unchanged

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| <p>3. The assessment of the likely significant effects of the proposed project on the environment (direct and indirect, cumulative, short-medium- and long-term, permanent and temporary, positive and negative) resulting from :</p> <ul style="list-style-type: none"><li>- the physical presence of the main and associated projects,</li><li>- the use of the resources of the environment,</li><li>- the emission of pollutions, nuisances and waste, as well as the secondary effects linked to their elimination,</li><li>- the risk of accidents</li></ul> | <p>3. The assessment of the likely significant effects of the proposed project on the environment (direct and indirect, cumulative, short-medium- and long-term, permanent and temporary, positive and negative) resulting from :</p> <ul style="list-style-type: none"><li>- the physical presence of the main and associated projects,</li><li>- the use of the resources of the environment,</li><li>- the emission of pollutions, nuisances and waste, as well as the secondary effects linked to their elimination,</li><li>- the risk of accidents,</li><li>- <u>the cumulative effect of the effects resulting from the proposed project and from other projects already carried out in the area.</u></li></ul> |
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Items 4-7 unchanged